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Examiner J.A. Fischetti	Paul D. Amrozowicz, Reg. No. 45,264	
COMPANY:	DATE:	
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Response to Notification of Non-Compliant Appeal Brief	09/839,037	

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Total Number of Pages in This Submission

17

Application Number	09/839,037
Filing Date	April 19, 2001
First Named Inventor	Vicki D. NAISH
Art Unit	3627
Examiner Name	J. A. Fischetti
Attorney Docket Number	H0002193-3170

ENCLOSURES (Check all that apply)

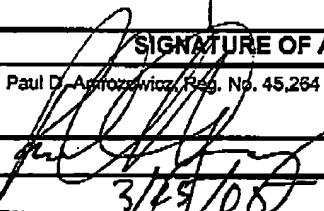
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Firm or Individual name

Paul D. Antonowicz, Reg. No. 45,264

Signature



Date

3/25/05

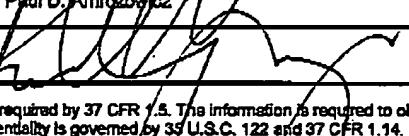
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of: Vicki D. NAISH et al. Group Art Unit: 3627
Serial No.: 09/839,037 Examiner: J. A. Fischetti
Filed: April 19, 2001 Confirmation No.: 3621

For: METHOD AND APPARATUS FOR CUSTOMER STOREFRONT
OPERATIONS

Attorney Docket No.: H0002193-3170

RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Notification of Non-Compliant Appeal Brief ("Notification") mailed March 14, 2005, Appellant hereby submits a complete new Appeal Brief in compliance with 37 C.F.R. § 41.37. The new brief submitted herewith is an exact duplicate of that which was previously filed on December 28, 2004, and which was allegedly non-compliant. As will now be explained, the Notification is wholly erroneous and Appellant respectfully requests that it be acknowledged as such.

The Notification alleges that the originally-filed Appeal Brief does not include a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, as required in 37 C.F.R. § 41.37(c)(1)(v). However, as can be clearly seen from the duplicate copy of that Appeal Brief that is submitted herewith, a section entitled "Summary of Claimed Subject Matter" is clearly provided on page 3, and

indeed this section includes a concise explanation of the subject matter defined in independent Claim 14, the only independent claim on appeal. The concise explanation references page and line numbers in the specification and the drawings, where appropriate, using reference numerals. Moreover, such a concise explanation is provided for each and every element that is listed in independent Claim 14.

Unfortunately, it appears as though the Examiner is reading extra language into Rule 41.37 by an indication in the Notification that “[t]he Summary of the Claimed Subject matter (sic) needs to have a line by line accounting of the elements of the independent claim(s) each referenced to the corresponding description in the specification.” This, however, is not a requirement of the Rule. Indeed, nowhere in the Rule is there language that states a “line by line accounting” of each independent claim is required.

As Rule 41.37(c)(1)(v) clearly states, the only requirement is that the brief shall contain “a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters.” See 37 C.F.R. § 41.37. The Appeal Brief submitted herewith, which is an exact duplicate of the originally submitted Appeal Brief, includes just such a “concise explanation” for independent Claim 14, which is the only independent claim on appeal.

In view of the foregoing, it is submitted that the Appeal Brief submitted herewith in response to the above-noted Notification, while not being compliant with an arbitrary requirement supplied in the Notification, is fully compliant with the clear and unmistakable language of 37 C.F.R. § 41.37(c)(1)(v), and should therefore be accepted without further delay.

Dated

3/25/05

Respectfully submitted,

Paul D. Amrozowicz
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